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REGULATIONS GOVERNING CARE AND TRANSPORTATION OF THE DEAD

Adopted as amended by the Delaware State Board of Health in official session on January 25, 1968, under authority of Title 16, Chapter 31, Section 3168 Delaware Code of 1953. Originally adopted May 23, 1953.

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DEPARTMENT OF STATE A/CDC/MR

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SECTION 1. DEFINITIONS

a. State Board of Health shall mean Delaware State Board of Health, its Executive Secretary, or Registrar of Vital Statistics, or any authorized agent thereof.

b. Funeral Director shall mean an Undertaker or Mortician licensed in the State of Delaware.

c. A Dead Body shall mean any human dead body, including any products of human conception expelled after twenty (20) weeks of gestation, whether born dead or dying thereafter.

d. Premises In Which Interments Are Made shall mean burying grounds, cemeteries, tombs or vaults, or any other places where disposal of bodies may be made.

SECTION 2. BURIAL PERMIT REQUIRED

No manager, superintendent, caretaker, sexton or other person in charge of any premises in which interments, entombments, cremations or other dispositions of any dead body are made, shall permit the interment, entombment, cremation or other disposition of such body unless it is accompanied by a burial or cremation permit or a temporary certificate authorizing burial, signed by a licensed funeral director. Upon receipt of the burial permit, the person in charge of the premises (or by the funeral director if there is no person in charge) shall sign the permit and retain same as a permanent record of authorization for burial. In the event that the person in charge of the premises receives a temporary certificate authorizing burial, said certificate shall be retained until the burial permit is received. Upon receipt of the burial permit, both the temporary certificate and the burial permit shall be retained by the person in charge of the premises as a permanent record of authorization for burial. If the person in charge of the premises does not receive the burial permit from the funeral director within a period of ten (10) days after burial takes place, he shall notify the State Registrar of Vital Statistics, Dover.

SECTION 3. BURIAL OF THE DEAD

Except as hereinafter provided, all human bodies dead within the State of Delaware shall be cremated or buried, or placed within a receiving vault within five (5) days after death. Any dead human body to be kept longer than twenty-four (24) hours shall be embalmed or placed in a hermetically sealed casket which will not be opened at any time after this twenty-four (24) hour period, except when medical or legal investigation necessitates a longer period. The State Board of Health shall issue a special permit in such cases. Application for such a permit shall be made to the State Registrar of Vital Statistics, Dover. Bodies to be kept more than twenty-four (24) hours under this exception must be stored in suitable, approved refrigeration facilities.

SECTION 4. DEPTH OF GRAVES

No interment of any human body shall be made in any public or private burial ground unless the distance from all parts of the top of the outer case containing the coffin or casket be not less than eighteen (18) inches from the natural surface of the ground.

The superintendent, sexton, caretaker, or other person in charge of a cemetery or burial ground shall be responsible that graves are of the depth required by this regulation. In the event that there be no such person in charge, it shall become the responsibility of the person burying the body.

SECTION 5. PERMANENT ENTOMBMENT FACILITIES AND RECEIVING VAULTS

Permanent Entombment Facilities:

When a body is placed in a permanent entombment facility, all exterior facings of the facility must be firmly and securely closed.

Receiving:

Receiving vaults may be used for a period not exceeding fifteen (15) days for the reception of bodies provided the bodies are properly embalmed by a licensed funeral director. Beyond this period, special permission from the State Board of Health is required. In every case, the death certificate must be filed immediately after death.

The responsible person in charge of the receiving vault shall make written application to the State Registrar of Vital Statistics, Dover, for this special permission at least one week prior to the expiration of the fifteen (15) day period.

This section shall not apply to bodies turned over to bonafide medical and surgical groups for anatomical or study purposes.

SECTION 6. PREPARATION OF BODIES DEAD OF CERTAIN DISEASES

In the preparation for burial of the body of any person who has died of smallpox, plague, anthrax, or other diseases which the State Board of Health may specify, it shall be the duty of the funeral director or person acting as such to accomplish the following:

a. To wash the surface of the body with an approved germicidal solution.

b. To effectively plug all body orifices immediately.

c. To embalm by arterial and cavity injection with an approved disinfectant fluid. No preparation containing arsenic shall be used for this purpose.

It shall be the duty of every funeral director engaged for or in charge of the preparation and burial of the body of a person who died of smallpox, plague, anthrax, or other disease which the State Board of Health may specify, or of the bringing of the dead body of any such person to Delaware, to give immediate notice thereof to the State Board of Health. No burial, cremation or transit permit for the body of any person who has died of these diseases shall be granted by telephone, but must be obtained in accordance with these regulations. Such body shall be immediately placed in a metal lined coffin or casket and the same shall be immediately and permanently sealed by the funeral director. If metal linings for coffins or caskets are unobtainable, the casket is to be constructed so as to not allow any seepage whatsoever therefrom and it is to be sealed as hereinbefore directed.

If it is desired to cremate the body of a person who has died of smallpox, plague, anthrax, or other diseases which the State Board of Health may specify, the casket need not be metal lined, but must be sealed as herein provided and removed to the crematory for immediate cremation. It shall be unlawful to invite or permit any person or persons other than the members of the immediate family on the premises where such deceased person has died of said diseases or where the body of such person has been held or prepared for burial. In the case of a person who has died of smallpox, plague, anthrax, or other diseases which the State Board of Health may specify, no public funeral shall be permitted.

SECTION 7. ACTS TENDING TO PROMOTE SPREAD OF DISEASE PROHIBITED

No funeral director shall needlessly expose himself or any other persons who may come into contact with a body dead of communicable disease which is transmissible by direct contact.

Any physician or hospital caring for an individual who dies of smallpox, plague, anthrax, or other diseases which the State Board of Health may specify, must notify the funeral director on the death certificate or by other written notice of the danger involved before the funeral director takes possession of such a body.

SECTION 8. SHIPMENT OF BODIES DEAD OF NON-CONTAGIOUS DISEASES

The body of any person dead of a non-contagious disease shall not be removed by common carrier from the registration district in which death occurred except under the following conditions:

a. When the remains have been thoroughly embalmed and disinfected or when shipped to such a point as can be reached within twenty-four (24) hours after death, the dead body shall be placed in a casket or coffin and the said casket or coffin shall be encased in a strong outer box made of good sound lumber not less than seven-eights (7/8) of an inch thick - a substantially constructed case; every outside case holding any dead body offered for transportation by common carrier shall be an approved shipping case.

b. When the bodies are not embalmed or the destination cannot be reached within twenty-four (24) hours after death, either the casket or outside case must be metal or metal lined and permanently sealed.

c. When body is removed by common carrier, the State law requires a transit permit, which will be secured from the local or deputy registrars of vital statistics.

SECTION 9. BURIAL-TRANSIT PERMIT

A burial-transit permit will be issued by local or deputy registrars upon the compliance of the funeral director with the provisions of Section 8 and the presentation of the death certificate.

SECTION 10. DISINTERMENTS

No dead body shall be removed from its place of original interment except under the following conditions:

1. Unless a permit from the State Registrar marked "Disinterment Permit" be secured by a licensed funeral director in charge of the disinterment (exception - Title 16, §3159, Delaware Code of 1953). The qualified person making the application shall present to the State Registrar the correct name, age, date of death and cause of death of the body to be disinterred, place of disinterment (hundred and county), together with written consent of next of kin. The State Registrar may require legal proof of such kinship.

2. All disinterment permits shall be void after the expiration of thirty (30) days from the date of issue.

3. Procedures:

a. The disinterment and removal must be under the direction of a licensed funeral director and in accordance with the rules governing the transportation of the dead.

b. The casket in which disinterred bodies are contained shall not be opened at any time.

c. The funeral director authorized to conduct a disinterment shall be held personally responsible for the enforcement of these requirements.

4. Special Provision:

A separate permit shall be secured in respect to each body to be disinterred, except that under special conditions the Board of Health of the State of Delaware may make special provisions for the mass removal of a number of bodies from a cemetery or burial ground.

SECTION 11. DISPOSITION OF AMPUTATED PARTS OF HUMAN BODIES

An amputated part of a human body recovered at an operation or accident may be kept for anatomical purposes and/or disposed of by burial in a cemetery or by cremation in a licensed crematory. If the hospital or institution has facilities for incinerating, the amputated part or parts may be incinerated in such hospital or institution upon the written approval of the patient or next of kin. Where a patient or his next of kin desires such amputated part to be buried in a cemetery or cremated in a licensed crematory, a permit shall be secured by the funeral director from the proper local or deputy registrar upon presentation of a duly executed "Certificate of Amputation".

The director of the hospital or institution wherein the amputation was performed shall have completed a "Certificate of Amputation" on a form furnished by the State Board of Health for immediate delivery to the funeral director, who shall file said "Certificate of Amputation" within forty-eight (48) hours with the proper local or deputy registrar. Such "Certificate of Amputation" may be signed by the operating surgeon or by the intern who assisted in the case. No regular death certificate shall be filed for amputated parts.

SECTION 12. DATE OF EFFECT

These regulations shall be in full force and effect immediately upon their approval and adoption by the State Board of Health.